

Introduced by Senator Leno

February 24, 2012

An act to amend Sections 11350, 11357, 11377, and 11590 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1506, as introduced, Leno. Possession of controlled substances: penalties.

Existing law provides that the unlawful possession of certain controlled substances, including, among others, cocaine, heroin, and those classified in Schedule III, IV, or V as a narcotic drug, is a felony punishable in a county jail for 16 months, or 2 or 3 years. The unlawful possession of certain other controlled substances, including, among others, concentrated cannabis, and those classified in Schedule III, IV, or V as nonnarcotic drugs, is punishable as a misdemeanor by imprisonment for not more than one year in a county jail, a fine, or by both imprisonment and fine, or as a felony by imprisonment in a county jail for 16 months or 2 or 3 years.

This bill would make the unlawful possession of any of those substances a misdemeanor punishable by imprisonment in a county jail for not more than one year.

Existing law requires a person who is convicted of specified controlled substance offenses to register with the law enforcement agency of a city, county, or city and county within 30 days of becoming a resident of that city, county, or city and county.

This bill would exclude certain misdemeanor offenses from the offenses that require a person to register, including a misdemeanor conviction for unlawful possession of concentrated cannabis.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11350 of the Health and Safety Code is
2 amended to read:
3 11350. (a) Except as otherwise provided in this division, every
4 person who possesses (1) any controlled substance specified in
5 subdivision (b) or (c) of, or paragraph (1) of subdivision (f) of,
6 Section 11054, specified in paragraph (14), (15), or (20) of
7 subdivision (d) of Section 11054, or specified in subdivision (b)
8 or (c) of Section 11055, or specified in subdivision (h) of Section
9 11056, or (2) any controlled substance classified in Schedule III,
10 IV, or V which is a narcotic drug, unless upon the written
11 prescription of a physician, dentist, podiatrist, or veterinarian
12 licensed to practice in this state, shall be punished by imprisonment
13 ~~pursuant to subdivision (h) of Section 1170 of the Penal Code in~~
14 *a county jail for not more than one year.*
15 (b) Except as otherwise provided in this division, every person
16 who possesses any controlled substance specified in subdivision
17 (e) of Section 11054 shall be punished by imprisonment in a county
18 jail for not more than one year or pursuant to subdivision (h) of
19 Section 1170 of the Penal Code.
20 (c) Except as otherwise provided in this division, whenever a
21 person who possesses any of the controlled substances specified
22 in subdivision (a) or (b), the judge may, in addition to any
23 punishment provided for pursuant to subdivision (a) or (b), assess
24 against that person a fine not to exceed seventy dollars (\$70) with
25 proceeds of this fine to be used in accordance with Section 1463.23
26 of the Penal Code. The court shall, however, take into consideration
27 the defendant's ability to pay, and no defendant shall be denied
28 probation because of his or her inability to pay the fine permitted
29 under this subdivision.
30 ~~(d) Except in unusual cases in which it would not serve the~~
31 ~~interest of justice to do so, whenever a court grants probation~~
32 ~~pursuant to a felony conviction under this section, in addition to~~
33 ~~any other conditions of probation which may be imposed, the~~
34 ~~following conditions of probation shall be ordered:~~

1 ~~(1) For a first offense under this section, a fine of at least one~~
2 ~~thousand dollars (\$1,000) or community service.~~

3 ~~(2) For a second or subsequent offense under this section, a~~
4 ~~fine of at least two thousand dollars (\$2,000) or community service.~~

5 ~~(3) If a defendant does not have the ability to pay the minimum~~
6 ~~finer specified in paragraphs (1) and (2), community service shall~~
7 ~~be ordered in lieu of the fine.~~

8 SEC. 2. Section 11357 of the Health and Safety Code is
9 amended to read:

10 11357. (a) Except as authorized by law, every person who
11 possesses any concentrated cannabis shall be punished by
12 imprisonment in the county jail for a period of not more than one
13 year or by a fine of not more than five hundred dollars (\$500), or
14 by both ~~such the~~ fine and imprisonment, ~~or shall be punished by~~
15 ~~imprisonment pursuant to subdivision (h) of Section 1170 of the~~
16 ~~Penal Code.~~

17 (b) Except as authorized by law, every person who possesses
18 not more than 28.5 grams of marijuana, other than concentrated
19 cannabis, is guilty of an infraction punishable by a fine of not more
20 than one hundred dollars (\$100).

21 (c) Except as authorized by law, every person who possesses
22 more than 28.5 grams of marijuana, other than concentrated
23 cannabis, shall be punished by imprisonment in a county jail for
24 a period of not more than six months or by a fine of not more than
25 five hundred dollars (\$500), or by both ~~such the~~ fine and
26 imprisonment.

27 (d) Except as authorized by law, every person 18 years of age
28 or over who possesses not more than 28.5 grams of marijuana,
29 other than concentrated cannabis, upon the grounds of, or within,
30 any school providing instruction in kindergarten or any of grades
31 1 through 12 during hours the school is open for classes or
32 school-related programs is guilty of a misdemeanor and shall be
33 punished by a fine of not more than five hundred dollars (\$500),
34 or by imprisonment in a county jail for a period of not more than
35 10 days, or both.

36 (e) Except as authorized by law, every person under the age of
37 18 who possesses not more than 28.5 grams of marijuana, other
38 than concentrated cannabis, upon the grounds of, or within, any
39 school providing instruction in kindergarten or any of grades 1
40 through 12 during hours the school is open for classes or

1 school-related programs is guilty of a misdemeanor and shall be
2 subject to the following dispositions:

3 (1) A fine of not more than two hundred fifty dollars (\$250),
4 upon a finding that a first offense has been committed.

5 (2) A fine of not more than five hundred dollars (\$500), or
6 commitment to a juvenile hall, ranch, camp, forestry camp, or
7 secure juvenile home for a period of not more than 10 days, or
8 both, upon a finding that a second or subsequent offense has been
9 committed.

10 SEC. 3. Section 11377 of the Health and Safety Code is
11 amended to read:

12 11377. (a) Except as authorized by law and as otherwise
13 provided in subdivision (b) or Section 11375, or in Article 7
14 (commencing with Section 4211) of Chapter 9 of Division 2 of
15 the Business and Professions Code, every person who possesses
16 any controlled substance which is (1) classified in Schedule III,
17 IV, or V, and which is not a narcotic drug, (2) specified in
18 subdivision (d) of Section 11054, except paragraphs (13), (14),
19 (15), and (20) of subdivision (d), (3) specified in paragraph (11)
20 of subdivision (c) of Section 11056, (4) specified in paragraph (2)
21 or (3) of subdivision (f) of Section 11054, or (5) specified in
22 subdivision (d), (e), or (f) of Section 11055, unless upon the
23 prescription of a physician, dentist, podiatrist, or veterinarian,
24 licensed to practice in this state, shall be punished by imprisonment
25 in a county jail for a period of not more than one year ~~or pursuant~~
26 ~~to subdivision (h) of Section 1170 of the Penal Code.~~

27 (b) (1) Any person who violates subdivision (a) by unlawfully
28 possessing a controlled substance specified in subdivision (f) of
29 Section 11056, and who has not previously been convicted of a
30 violation involving a controlled substance specified in subdivision
31 (f) of Section 11056, is guilty of a misdemeanor.

32 (2) Any person who violates subdivision (a) by unlawfully
33 possessing a controlled substance specified in subdivision (g) of
34 Section 11056 is guilty of a misdemeanor.

35 (3) Any person who violates subdivision (a) by unlawfully
36 possessing a controlled substance specified in paragraph (7) or (8)
37 of subdivision (d) of Section 11055 is guilty of a misdemeanor.

38 (4) Any person who violates subdivision (a) by unlawfully
39 possessing a controlled substance specified in paragraph (8) of
40 subdivision (f) of Section 11057 is guilty of a misdemeanor.

(c) In addition to any fine assessed under subdivision (b), the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 4. Section 11590 of the Health and Safety Code, as amended by Section 2 of Chapter 1417 of the Statutes of 1990, is amended to read:

11590. (a) (1) Except as provided in subdivisions (c) and (d), any person who is convicted in the State of California of any offense defined in Section 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11354, 11355, ~~11357~~, 11358, 11359, 11360, 11361, 11363, 11366, 11366.5, 11366.6, 11368, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383, or 11550, ~~or subdivision (a) of Section 11377~~, or any person who is discharged or paroled from a penal institution where he or she was confined because of the commission of any such offense, or any person who is convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall within 30 days of his or her coming into any county or city, or city and county in which he or she resides or is temporarily domiciled for that length of time, register with the chief of police of the city in which he or she resides or the sheriff of the county if he or she resides in an unincorporated area.

(2) For persons convicted of an offense defined in Section ~~11377~~, 11378, 11379, or 11380, this subdivision shall apply only to offenses involving controlled substances specified in paragraph (12) of subdivision (d) of Section 11054 and paragraph (2) of subdivision (d) of Section 11055, and to analogs of these substances, as defined in Section 11401. For persons convicted of an offense defined in Section 11379 or 11379.5, this subdivision shall not apply if the conviction was for transporting, offering to transport, or attempting to transport a controlled substance.

(b) Any person who is convicted in any federal court of any offense which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in

1 subdivision (a) shall within 30 days of his or her coming into any
2 county or city, or city and county in which he or she resides or is
3 temporarily domiciled for that length of time, register with the
4 chief of police of the city in which he or she resides or the sheriff
5 of the county if he or she resides in an unincorporated area.

6 (c) This section does not apply to a conviction of a misdemeanor
7 under Section ~~11357~~, 11360, or ~~11377~~.

8 (d) The registration requirements imposed by this section for
9 the conviction of offenses defined in Section 11353.7, 11366.5,
10 11366.6, ~~11377~~, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380,
11 11380.5, or 11383, shall apply to any person who commits any of
12 those offenses on and after January 1, 1990.

13 SEC. 5. Section 11590 of the Health and Safety Code, as
14 amended by Section 1 of Chapter 714 of the Statutes of 1995, is
15 amended to read:

16 11590. (a) (1) Except as provided in subdivisions (c) and (d),
17 any person who is convicted in the State of California of any
18 offense defined in Section 11350, 11351, 11351.5, 11352, 11353,
19 11353.5, 11353.7, 11354, 11355, ~~11357~~, 11358, 11359, 11360,
20 11361, 11363, 11366, 11366.5, 11366.6, 11368, 11370.1, 11378,
21 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383, or
22 11550, or subdivision (a) of Section ~~11377~~, or any person who is
23 discharged or paroled from a penal institution where he or she was
24 confined because of the commission of any such offense, or any
25 person who is convicted in any other state of any offense which,
26 if committed or attempted in this state, would have been punishable
27 as one or more of the above-mentioned offenses, shall within 30
28 days of his or her coming into any county or city, or city and county
29 in which he or she resides or is temporarily domiciled for that
30 length of time, register with the chief of police of the city in which
31 he or she resides or the sheriff of the county if he or she resides in
32 an unincorporated area.

33 (2) For persons convicted of an offense defined in Section
34 ~~11377~~, 11378, 11379, or 11380, this subdivision shall apply only
35 to offenses involving controlled substances specified in paragraph
36 (12) of subdivision (d) of Section 11054 and paragraph (2) of
37 subdivision (d) of Section 11055, and to analogs of these
38 substances, as defined in Section 11401. For persons convicted of
39 an offense defined in Section 11379 or 11379.5, this subdivision

1 shall not apply if the conviction was for transporting, offering to
2 transport, or attempting to transport a controlled substance.

3 (b) Any person who is convicted in any federal court of any
4 offense which, if committed or attempted in this state would have
5 been punishable as one or more of the offenses enumerated in
6 subdivision (a) shall, within 30 days of his or her coming into any
7 county or city, or city and county, in which he or she resides or is
8 temporarily domiciled for that length of time, register with the
9 chief of police of the city in which he or she resides or the sheriff
10 of the county if he or she resides in an unincorporated area.

11 (c) This section does not apply to a conviction of a misdemeanor
12 under Section ~~11357~~, 11360, ~~or 11377~~.

13 (d) The registration requirements imposed by this section for
14 the conviction of offenses defined in Section 11353.7, 11366.5,
15 11366.6, 11370.1, ~~11377~~, 11378, 11378.5, 11379, 11379.5,
16 11379.6, 11380, 11380.5, or 11383, shall apply to any person who
17 commits any of those offenses on and after January 1, 1990.